

The Honorable James L. Robart

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON AT SEATTLE

CHRISTOPHER W. HESSE and  
NATHANIEL OLSON,

Plaintiffs,

v.

SPRINT SPECTRUM L.P.,

Defendant.

No. CV-06-00592-JLR

**FINAL ORDER APPROVING CLASS  
SETTLEMENT**

On December 2, 2014, the Court heard plaintiffs Christopher Hesse and Nathaniel Olson's ("Plaintiffs") Motion for Final Approval of Proposed Class Settlement (Dkt. No. 311) and Plaintiffs' Motion for Attorneys' Fees, Costs, Expenses, and Incentive Fees (Dkt. No. 306). The Court reviewed the motions and the supporting papers, including, the Settlement Agreement and Release ("Settlement Agreement").<sup>1</sup> The Court also considered the oral argument of counsel. There were no objectors to the Settlement Agreement. Based on this review and the findings below, the Court found good cause to grant the motion.

<sup>1</sup> This Order incorporates by reference the definition of any capitalized terms as set forth in the Settlement Agreement except as otherwise defined herein.

**FINDINGS:**

1           **1.**     The Settlement Agreement is fair, reasonable, and adequate. The  
2     Settlement Agreement was negotiated at arm's length, in good faith, by capable and  
3     experienced counsel, with full knowledge of the facts, the law, and the risks inherent in  
4     litigating the Action, and with the active involvement of the Parties. Moreover, the  
5     Settlement confers substantial economic benefits on the Class Members, is not  
6     contrary to the public interest, and will provide the Parties with repose from litigation.

7           **2.**     The Parties adequately performed their obligations under the Settlement  
8     Agreement.

9           **3.**     Heffler Claims Group (the "Claims Administrator") provided notice to  
10    Class Members in compliance with paragraph 3.3 of the Settlement Agreement, due  
11    process, and Rule 23 of the Settlement Agreement, due process, and Rule 23 of the  
12    Federal Rules of Civil Procedure. The notice: (a) fully and accurately informed Class  
13    Members about the lawsuit and Settlement; (b) provided sufficient information so that  
14    Class Members were able to decide whether to accept the benefits offered, opt-out  
15    and pursue their own remedies, or object to the proposed Settlement; (c) provided  
16    procedures for Class Members to file written objections to the proposed Settlement, to  
17    appear at the Fairness Hearing, and to state objections to the proposed Settlement;  
18    and (d) provided the time, date, and place of the Fairness Hearing.

19           **4.**     As set forth in the separate order granting Named Plaintiffs' and Class  
20    Co-Counsel's motion for attorneys' fees and costs, an award of \$4,000,000.00, with a  
21    possible supplemental award of up to \$1,000,000.00, in attorneys' fees and costs to  
22    Class Co-Counsel is fair and reasonable in light of the nature of this case, Class Co-  
23    Counsel's experience and efforts in prosecuting this Action, and the benefits obtained  
24    for the Class. The award will be paid out of the Settlement Fund pursuant to  
25    paragraph 2.2 of the Settlement Agreement.  
26

1           5.     An incentive award to each Named Plaintiff of \$7,500.00 is fair and  
2 reasonable in light of: (a) Named Plaintiffs' risks in commencing this Action as the  
3 Class Representatives; (b) the time and effort spent by Named Plaintiffs in litigating  
4 this action as the Class Representatives; and (c) Named Plaintiffs' public interest  
5 service. The award will be paid out of the Settlement Fund pursuant to paragraph 2.3  
6 of the Settlement Agreement.

7 **IT IS ORDERED THAT:**

8           6.     **Class Members.** The Class Members are defined as:

9                 All current and former Sprint Spectrum L.P. ("Sprint")

10                Account Holders, who, from March 1, 2002, to April 30,

11                2012, were billed a B&O Surcharge by Sprint.

12           7.     **Binding Effect of Order.** This order applies to all claims or causes of  
13 action settled under the Settlement Agreement, and binds Named Plaintiffs and all  
14 Settlement Class Members who did not properly request exclusion under paragraph 7  
15 of the Order Granting Preliminary Approval of Class Settlement. This order does not  
16 bind persons who filed a timely and valid Exclusion Request. Attached hereto as  
17 Exhibit A is a list of persons who properly requested to be excluded from the  
18 Settlement.

19           8.     **Release.** Named Plaintiffs and all Settlement Class Members are: (1)  
20 deemed to have released and discharged Sprint and the Released Parties from all  
21 claims arising out of or asserted in this Action and all claims released under the  
22 Settlement Agreement; and (2) barred and permanently enjoined from asserting,  
23 instituting, or prosecuting, either directly or indirectly, these claims. The full terms of  
24 the release described in this paragraph are set forth in paragraph 4.3 of the Settlement  
25 Agreement and are specifically approved and incorporated herein by this reference  
26 (the "Release").

1           **9. Class Relief.** The Settlement Fund, consisting of twenty million United  
2 States dollars and no cents (\$20,000,000.00), shall be used to reimburse the Class for  
3 the amounts of B&O Surcharge Sprint collected between March 2002 and April 2012.  
4 Each Settlement Class Member shall receive a Reimbursement Payment calculated  
5 as follows: (i) For Accounts in Good Standing that existed prior to June 30, 2004, the  
6 Reimbursement Payment will equal 152% of the B&O Surcharge billed to the Account,  
7 subject to the potential upward adjustments set forth in the Settlement Agreement; and  
8 (ii) For Accounts in Good Standing that did not exist prior to June 30, 2004, the  
9 Reimbursement Payment will equal 110% of the B&O Surcharge billed to the Account,  
10 subject to the potential upward adjustments set forth in the Settlement Agreement.  
11 (iii) Notwithstanding the foregoing, for Accounts that are not in Good Standing,  
12 regardless of when the Account was opened, the Reimbursement Payment will equal  
13 50% of the B&O Surcharge billed to the Account, subject to the potential upward  
14 adjustments set forth in the Settlement Agreement. Settlement Class Members will  
15 receive Reimbursement Payments as provided in paragraph 3.5(d) of the Settlement  
16 Agreement.

17           **10. Administration Fee.** The Claims Administrator is authorized to withdraw  
18 the Administration Fee from the Fund Account according to the terms of the  
19 Settlement Agreement. The Administration Fee shall have priority to the funds in the  
20 Fund Account over the Class Counsel Award, the Incentive Award, and the  
21 Reimbursement Payments.

22           **11. Appointment of Class Representative and Class Counsel.** Named  
23 Plaintiffs Christopher Hesse and Nathaniel Olson were previously certified as the class  
24 representatives and shall implement the Parties' Settlement in accordance with the  
25 Settlement Agreement. As previously appointed, the law firms of Breskin Johnson &  
26 Townsend PLLC and Stritmatter Kessler Whelan are Class Co-Counsel. Named

1 Plaintiffs and Class Co-Counsel must fairly and adequately protect the Class's  
2 interests.

3 **12. Attorney's Fees and Costs.** As set forth in a separate order this date,  
4 Class Co-Counsel is awarded \$4,000,000.00, with a possible supplemental award of  
5 up to \$1,000,000.00, in fees and costs. Payment shall be made from the Fund  
6 Account pursuant to the timeline stated in paragraph 2.2 of the Settlement Agreement.

7 **13. Incentive Award.** Named Plaintiffs Christopher Hesse and Nathaniel  
8 Olson are each awarded \$7,500.00 as an incentive award. Payment shall be made  
9 from the Fund Account pursuant to the timeline stated in paragraph 2.3 of the  
10 Settlement Agreement.

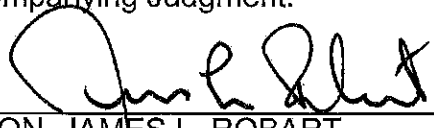
11 **14. Dismissal with Prejudice.** The Court hereby dismisses the Action in its  
12 entirety with prejudice, and without fees or costs except as otherwise provided for  
13 herein.

14 **15. Termination.** If the Final Settlement Date does not occur for any  
15 reason, the following will occur: (a) the Final Order and Judgment and all of their  
16 provisions, will be vacated by their own terms, including, but not limited to the Class  
17 Counsel Award and the Incentive Award, and the Final Order and Judgment will not  
18 waive or otherwise impact the Parties' rights or arguments in any respect; and (b) the  
19 Action will revert to the status that existed before the Settlement Agreement's  
20 execution date. No term or draft of this Settlement Agreement, or any part of the  
21 Parties' settlement discussions, negotiations, or documentation will have any effect or  
22 be admissible in evidence for any purpose in the Action or any other proceeding.

23 **16. Court's Jurisdiction.** Pursuant to the Parties' request, the Court will  
24 retain jurisdiction over this Action and the Parties until final performance of the  
25 Settlement Agreement.  
26

1           **17. Entry of Judgment.** The Clerk of Court is hereby directed to enter as a  
2 separate document on the docket the accompanying Judgment.

3  
4 **DATED:** 2 December, 2014

  
HON. JAMES L. ROBART  
UNITED STATES DISTRICT JUDGE